

EXECUTIVE CHAMBERS

HONOLULU

April 24, 2007

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 863

Honorable Members  
Twenty-Fourth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 863, entitled "A Bill for an Act Relating to Public Work Projects."

The purpose of this bill is to mandate that a private construction project will be considered a public work project subject to chapter 104, Hawaii Revised Statutes, Hawaii's Wages and Hours of Employees on Public Works law, if the State or a political subdivision leases or is assigned more than fifty percent of the project. Copies of the lease agreement must be filed with the Department of Accounting and General Services and the Department of Labor and Industrial Relations.

Additionally, this bill requires the construction project owner submit weekly certified payrolls to the leasing governmental agency or the governmental agency using the leased or assigned space which, for the purposes of chapter 104, shall be deemed the governmental contracting agency.

Finally, this bill requires that prior to the start of construction, the construction project owner sign an agreement with the leasing governmental entity agreeing to pay the prevailing wage to the laborers and mechanics working on this project and to otherwise comply with the requirements of chapter 104.

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This bill is objectionable because it is an unwarranted expansion of the types of projects that could be subject to public works projects rules and statutes. Currently, section 12-22-1 of the Hawaii Administrative Rules defines a public work to encompass a private construction project when the State or a political subdivision leases the entire building or structure and where: (1) the lease was entered into prior to construction of the structure or building; and (2) the construction work was performed according to plans, specifications, or criteria of the leasing governmental entity.

Expanding public works coverage to mixed public-private structures may inject confusion and needlessly increase the associated building costs of a private construction project. Smaller owners in particular may not want to develop commercial space for lease to the government because of the additional burden of complying with unfamiliar labor laws. It is anticipated that this bill will also probably limit or reduce the number of office buildings that will be available for lease to government agencies. This bill may likewise impede the development of mixed use housing projects, wherein some of the units were for market sale or rental and others were leased to a public housing corporation for elderly, Section 8, or transitional housing.

Finally, because this bill directs that certified payrolls be submitted to either the governmental leasing entity or the governmental agency accepting the construction project and not to the Department of Labor and Industrial Relations, this data will go to entities that have no authority to audit or enforce these payrolls, thereby inhibiting the enforcement of wage laws this bill attempts to impose on private projects.

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For the foregoing reasons, I am returning House Bill  
No. 863 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read 'Linda Lingle', with a stylized flourish at the end.

LINDA LINGLE  
Governor of Hawaii